Supreme Court, U.S.
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No. 05-32

In The Supreme Court of the United States

ABDELHAFID RAHMANI,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE DISTRICT COURT OF APPEAL, FIFTH DISTRICT
STATE OF FLORIDA

PETITION FOR WRIT OF CERTIORARI WITH APPENDIX

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QUESTION PRESENTED

Petitioner contends that the trial court erred in denying his motions to suppress statements. Petitioner submits that any inculpatory statements or admissions that he may have made prior to, during or after his detention should have been suppressed. The evidence is inadmissible because it was obtained in violation of Petitioner's Fifth Amendment right against self-incrimination, Sixth Amendment right to counsel, and due process of law. Therefore, the introduction of these statements violated Petitioner's Fifth Amendment right to remain silent and Sixth Amendment right to the assistance of counsel. Additionally, Petitioner submits that after his arrest, prior to being interviewed, he was not advised of his right to speak to consular officials concerning his arrest as guaranteed by Article 36 of the Vienna Convention. Petitioner submits that the treaty confers individual rights.

Petitioner contends that the trial court erred in denying his motion to suppress evidence. Petitioner submits that the evidence is inadmissible because it was obtained in violation of Petitioner's Fourth Amendment right against illegal search and seizure and the good faith exception to the warrant requirement does not apply. As a result, Petitioner has been denied a fair trial by the circuit court, and a full, fair and independent review of the question by the Court of Appeals.

Therefore, the questions presented are:

1. Whether the trial court erred in denying Petitioner's Motion to suppress statements, and if so, did the erroneous introduction of the improper evidence deny Petitioner a fair trial.

2. Whether Article 36 of the Vienna Convention confers individual rights and if so, (a) whether the International Court of Justice's judgment is binding on American courts; and (b) whether Article 36(1)(b) of the Convention creates a judicially enforceable individual right.

3. Whether the trial court erred in denying Petitioner's Motion to suppress evidence, and if so, did the erroneous introduction of the improper evidence deny Petitioner a fair trial.

4. Whether the trial court and the District Court of Appeal denied Petitioner due process of law and equal protection by failing to recognize and apply well established law.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINION BELOW

The opinion of the District Court of Appeal, Fifth District, State of Florida, appears at Appendix "A".

JURISDICTION

The date on which the Florida District Court of Appeal decided the case was March 4, 2005. A copy of the decision appears at Appendix "A". A timely motion for rehearing, certification and request that the court issue a written opinion, was denied by the Florida District Court of Appeal on April 7, 2005. A copy of the order appears at Appendix "B". The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS INVOLVED

CONSTITUTION OF THE UNITED STATES

AMENDMENT IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

AMENDMENT V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.